

1964

## CONGRESSIONAL RECORD — SENATE

2809

of the decision of the court, and make such revisions in the decision of the Administrator appealed from as are required.

#### "§ 4055. Attorneys and agents

"(a) The court, as a part of each decision entered, shall determine and allow reasonable fees for the attorney or attorneys of the claimant or claimants, and apportion same, if proper. The court may also approve reasonable attorney's fees in cases where, after decision has been rendered by the Board adverse to a claimant, an attorney has rendered services to a claimant in connection with an appeal to the court which lead to reversal or modification of the decision of the Board, whether or not an appeal is actually filed with the court in such case.

"(b) The court may prescribe qualifications of persons who may represent claimants in proceedings before the court and the commissioners.

#### "§ 4056. New and material evidence

"No fact found in a decision of the court may be reconsidered except where new and material evidence is produced after the decision of the court is rendered which was not available or discovered until after such decision was rendered.

#### "Subchapter II—Procedure and administration

#### "§ 4061. Clerk

"(a) The court may appoint a clerk and an assistant clerk, each of whom shall be subject to removal by the court. The court shall report any such removal and the cause thereof to Congress as soon as possible.

"(b) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him.

"(c) On the first day of every regular session of Congress, the clerk shall have published a full and complete statement of all the judgments rendered by the court during the previous year, showing the dates and amounts thereof and the parties in whose favor they were rendered, together with a brief synopsis of the nature of the claims upon which they were rendered, and a statement of the costs taxed in each case.

#### "§ 4062. Commissioners

"(a) The court may appoint not more than ten commissioners on a full-time basis, who shall be subject to removal by the court. The court may also procure, on a temporary or intermittent basis, the service of individuals as commissioners, in accordance with section 55a of title 5. The commissioners shall perform such duties as the court may prescribe, including, but not limited to, conducting hearings, receiving evidence, taking depositions, qualifying witnesses, and making such reports as the court may prescribe.

"(b) The compensation of each full-time commissioner shall be fixed by the court, but shall not exceed the maximum rate prescribed in the compensation schedule for the General Schedule of the Classification Act of 1949. Each commissioner shall receive all necessary traveling expenses and a per diem allowance as provided in sections 835-842 of title 5 while traveling on official business and away from his home.

"(c) No person may be appointed as a commissioner unless he is a member of the bar of a Federal court or of the highest court of a State, and has engaged in the active practice of law for five or more years. No person may be appointed as a commissioner who within the two-year period preceding his appointment has been a civilian officer or employee of the United States serving in the Veteran's Administration, the Department of Defense, the Bureau of the Budget, or the General Accounting Office.

#### "§ 4063. Stenographers; clerical employees; bailiff

"(a) The court shall appoint stenographers and other clerical employees in such

numbers as may be necessary, each of whom shall be subject to removal by the court.

"(b) The court may appoint a bailiff and a messenger who shall be subject to removal by the court. The bailiff shall attend the court, preserve order, and perform such other necessary duties as the court directs.

#### "§ 4064. Fees; charge for court's opinions

"(a) The court may by rule impose a fee not exceeding \$10 for the filing of any appeal.

"(b) The clerk of the court may collect for each certified copy of the court's opinion a fee in such amount as the court may determine."

SEC. 2. (a) The title and table of chapters of part V of title 38, United States Code, is amended to read as follows:

#### "PART V—BOARDS, COURT OF VETERANS' APPEALS AND DEPARTMENTS

| Chapter                                      | Sec.  |
|--|-------|
| "71. Board of Veterans' Appeals-----         | 4001  |
| "72. Court of Veterans' Appeals-----         | 4051  |
| "73. Department of Medicine and Surgery----- | 4101  |
| "75. Veterans' Canteen Service-----          | 4201" |

(b) The table of parts and chapters at the beginning of title 38, United States Code, is amended as follows:

(1) By striking out  
"V. BOARDS AND DEPARTMENTS----- 4001"  
and inserting in lieu thereof

"V. BOARDS, COURT OF VETERANS' APPEALS, AND DEPARTMENTS----- 4001";

(2) By striking out  
"PART V—BOARDS AND DEPARTMENTS"  
and inserting in lieu thereof

"PART V—BOARDS, COURT OF VETERANS' APPEALS, AND DEPARTMENTS";

and  
(3) By inserting immediately below  
"71. Board of Veterans' Appeals----- 4001"  
the following:

"72. Court of Veterans' Appeals----- 4051".

SEC. 3 (a) Section 3405 of title 38, United States Code, is amended by inserting ", 4055," immediately after "3404".

(b) Subsection (a) of section 4004 of title 38, United States Code, is amended by striking out "Final" and inserting in lieu thereof "Except as provided in chapter 72 of this title, final".

(c) Subsection (c) of such section 4004 is amended (1) by striking out "Administrator, and" and inserting in lieu thereof "Administrator,"; and (2) by inserting immediately before the period at the end thereof the following: ", and the precedent opinions of the Court of Veterans' Appeals."

#### AMENDMENT OF SECTION 245 OF IMMIGRATION AND NATIONALITY ACT—ADJUSTMENT OF STATUS FOR CUBAN REFUGEES

Mr. HART. Mr. President, I introduce, for appropriate reference, a bill to amend the Immigration and Nationality Act of 1952 to permit the adjustment of status of refugees resident in the United States, who are natives of countries contiguous to the United States or of any adjacent islands, including Cuba.

The bill eliminates the technical requirement of our immigration laws which requires such aliens to leave this country and reenter, in order to become eligible for permanent residence. I do not question this requirement for aliens who have come here through normal procedure and in casual circumstances, and then elect to apply for permanent residence. The requirement, however, would seem to have little justification in

the case of refugees from the Communist regime in Cuba. Certainly, their entry into this country was anything but normal and casual—they were under duress and fleeing oppression.

Moreover, the requirement inhibits the rather substantial Federal program of assistance administered by the Department of Health, Education, and Welfare in cooperation with several voluntary agencies, religious bodies, and civic organizations. As Senators know, the purpose and content of this program is to render effective asylum by providing our Cuban guests with opportunities for self-support, chiefly through resettlement.

Mr. President, the talents of many Cuban refugees are going to waste because State professional licensing laws keep those without permanent status from practicing their skills or professions. This situation, and the expensive and laborious procedure to obtain this status under present law, is keeping many Cubans on relief rolls and in various difficult circumstances. I am thinking, for example, of the Cuban lady in Kinde, Mich., a doctor of philosophy; or another in Holland, Mich., a former teacher of English in Cuba—both of whom have been unable to teach Spanish in the local public schools because of their immigration status. But these refugees are qualified. They could fill an urgent need.

These two examples are multiplied throughout the country in every State and especially on the welfare rolls of the Cuban Refugee Center in Miami.

The bulk of the Cubans are highly skilled and educated persons—professional, technical, and managerial workers, office personnel, and skilled workers. I firmly believe this reservoir of talent should be tapped to the fullest extent—in the interest of the individual Cuban, for the development of our society. We can then anticipate a decreasing Federal expenditure in the program of assistance, and a progressive solution to the problem of refugees from Cuba. The bill I offer today would help accomplish this objective.

I am hopeful, also, that this bill would encourage the resettlement of Cubans to other countries of this hemisphere. The refugee talent should also be tapped for the economic, social and political development of the Western Hemisphere. And certainly, we could find no more effective spokesmen to describe the destruction of freedom under Castro's brand of communism than the Cubans who have fled their homeland.

Today, however, refugees are hesitant to leave the United States. Under their present immigration status they are not assured of reentry, if for valid reasons they choose to return. The proposed bill would help remedy the situation.

The Subcommittee on Refugees and Escapees, of which I have the honor to serve as chairman, has conducted extensive hearings on the Cuban refugee problem. On the basis of these hearings and additional study, I believe the passage of this bill would have immediately beneficial effects for all concerned.

Mr. President, I should emphasize that the bill in no way places a stamp of finality on communism in Cuba. It is

merely intended to render more effective asylum to Cuban refugees while they remain the guests of America.

The proposed bill is permissive rather than mandatory. It does not automatically blanket all Cuban refugees in this country with an adjustment of status. We do not want to force anybody to accept permanent residence. The bill is a limited measure to encourage self-support through resettlement, by affording an opportunity for adjustment of status to those refugees who need or desire it to ply their skills and talents. The usual screening process, of course, would apply such refugees.

Public Law 85-559, enacted in 1958 for Hungarian refugees, is somewhat of a precedent for the bill I offer today. I hope sincerely the Senate will act promptly on this bill.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2510) to amend section 245 of the Immigration and Nationality Act, introduced by Mr. HART, was received, read twice by its title, and referred to the Committee on the Judiciary.

#### PRESIDENTIAL MEMORIAL COMMISSION

Mr. HARTKE. Mr. President, Washington is a beautiful city. This is something no one can deny.

But we also cannot deny that the city is overloaded with memorials and is becoming more so. There seems to be no end to the memorials proposed.

I introduce, for appropriate reference, a joint resolution which would set up a Commission of 12 members to develop a permanent memorial to all past Presidents in Washington. Four each would be named by the Speaker of the House, the President of the Senate, and the President of the United States.

This Commission would, I believe, serve to develop plans for a memorial appropriate to all those who have served with distinction as Chief Executive and would obviate the need for Congress to consider seemingly endless requests for memorials, each to an individual past President.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 154) to establish a Commission to formulate plans for a permanent memorial to past Presidents of the United States, introduced by Mr. HARTKE, was received, read twice by its title, and referred to the Committee on Rules and Administration.

#### CONSTRUCTION OF ALASKAN HIGHWAY—ADDITIONAL COSPONSOR—S. 2417

Mr. METCALF. Mr. President, I ask unanimous consent that the next time the bill (S. 2417) to authorize the appropriation of funds for the construction, reconstruction, and improvement of the Alaska Highway is printed it carry the name of the senior Senator from Alaska [Mr. BARTLETT] as a cosponsor.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Without objection, it is so ordered.

#### NOTICE OF RECEIPT OF NOMINATION BY COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the nomination of Howard E. Haugerud, of Minnesota, to be Deputy Inspector General, Foreign Assistance.

In accordance with the committee rule, this pending nomination may not be considered prior to the expiration of 6 days of its receipt in the Senate.

#### NOTICE OF HEARINGS ON PRESIDENTIAL DISABILITY AND MEANS FOR FILLING A VACANCY IN THE OFFICE OF THE VICE PRESIDENT

Mr. DODD. Mr. President, as chairman of the Senate Judiciary Subcommittee on Constitutional Amendments, I wish to announce forthcoming public hearings on Presidential disability and means for filling the vacancy of the office of the Vice President. The hearings shall be held in room 2228 of the New Senate Office Building beginning at 10 a.m., February 24, 25, 26, 27, and 28, if necessary, 1964.

Persons interested in this matter should communicate with the subcommittee prior to February 21.

#### NOTICE CONCERNING NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. FART. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

A. Leon Higginbotham, Jr., of Pennsylvania to be U.S. district judge, eastern district of Pennsylvania, appointed during last recess of the Senate;

John Morgan Davis, of Pennsylvania, to be U.S. district judge, eastern district of Pennsylvania, appointed during last recess of the Senate; and

Thomas J. Kenney, of Maryland, to be U.S. attorney, district of Maryland, for a term of 4 years, vice Joseph D. Tydings, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, February 24, 1964, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

#### NOTICE OF PUBLIC HEARING ON H.R. 8190

Mr. McCLELLAN. Mr. President, as chairman of the standing Subcommittee on Patents, Trademarks and Copyrights of the Committee on the Judiciary, I wish

to announce that the subcommittee has scheduled a public hearing on H.R. 8190, a bill to fix the fees payable to the Patent Office. The hearing will commence on Thursday, February 27, 1964, at 10 a.m., in room 3302, New Senate Office Building.

Anyone wishing to testify or file a statement for the record should communicate immediately with the Office of the Subcommittee, Room 349A, Senate Office Building, Washington 25, D.C., telephone Capitol 4-3121 or Government code 180, extension 2268.

The subcommittee consists of the Senator from South Carolina [Mr. JOHNSTON], the Senator from Michigan [Mr. HART], the Senator from North Dakota [Mr. BURDICK], the Senator from Pennsylvania [Mr. SCOTT], the Senator from Hawaii [Mr. FONG], and myself.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 17, 1964, he presented to the President of the United States the enrolled bill (S. 298) to amend the Small Business Investment Act of 1958.

#### ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. PELL:

Address delivered by Hon. FERNAND ST GERMAIN, Member of Congress from the First District of Rhode Island, at the annual awards dinner, Thundermist District, Boy Scouts of America, February 8, 1964, Woonsocket, R.I.

By Mr. BEALL:

Lincoln Day address by Mark Evans, vice president, Metromedia, Inc., delivered at annual Lincoln Day dinner, Cumberland, Md., on February 7, 1964.

By Mr. HARTKE:

Editorial entitled "Indiana's Important, Too," published in the Lafayette (Ind.) Journal & Courier.

By Mr. MAGNUSON:

Article entitled "John F. Kennedy—Forthright for Fisheries," published in Pacific Fisherman, January 1964 issue.

#### LITHUANIAN INDEPENDENCE DAY

Mr. DIRKSEN. Mr. President, January 16 of each year people of Lithuanian extraction throughout the world pray that all people behind the Iron Curtain be given the right of self-determination and to live as freemen. Their hopes and prayers go to the free world to aid them in this dedicated cause.

Mr. President, I introduced Senate Concurrent Resolution 54 on July 25, 1963, in which the Senate and the House of Representatives were asked to resolve:

That the President is hereby requested to take such action as may be necessary to bring before the United Nations for its consideration the question of the forceful incorporation of the Baltic States Republics into the Soviet Union, and a resolution declaring that—(a) the Soviet Union shall withdraw all Soviet troops, agents, colonists, and controls from the Baltic States; (b) the Soviet Union shall return all citizens of